



BOARD OF VARIANCE

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, Main Floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, **2019 February 07** at 6:00 p.m.

1. CALL TO ORDER

PRESENT: Mr. Stephen Nemeth, Chair
Mr. Rana Dhatt, Citizen Representative
Ms. Brenda Felker, Citizen Representative
Mr. Wayne Peppard, Citizen Representative

ABSENT: Mr. Jag Dhillon, Citizen Representative

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor
Ms. Lauren Cichon, Administrative Officer

The Administrative Officer called the meeting to order at 6:00 p.m.

2. ELECTIONS

(a) Election of Chair

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT Mr. S. Nemeth be appointed as Chair of the Burnaby Board of Variance for the 2019 February 07 Hearing.

CARRIED UNANIMOUSLY

The Administrative Officer requested the election of the Chair for the balance of 2019 be held at the 2019 March 07 hearing.

3. **MINUTES**

(b) **Minutes of the Board of Variance Hearing held on 2019 January 10**

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 January 10 be adopted.

CARRIED UNANIMOUSLY

4. **APPEAL APPLICATIONS**

(a) **APPEAL NUMBER:** B.V. 6349

APPELLANT: Andrew Beunk

REGISTERED OWNER OF PROPERTY: Andrew and Theresa Beunk

CIVIC ADDRESS OF PROPERTY: 8448 13th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 8 DL: 25 Plan: NWP1465

APPEAL: An appeal for the relaxation of Section 6.6(2)(d) of the Burnaby Zoning Bylaw which, if permitted, would allow for an addition, interior alterations and carport enclosure to an existing single family dwelling at 8448 13th Avenue. The applicant requests a variance to allow a side yard setback of 3.70 feet, where a minimum set back of 3.94 feet is required. Zone R5.

APPELLANT'S SUBMISSION:

Mr. Andrew Beunk, property owner, submitted an application to allow for an addition, interior alterations and a carport enclosure to an existing single family dwelling.

Ms. Theresa Beunk appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R5 Residential District, is located in the Cariboo-Armstrong neighbourhood, in which the age and condition of single and two family dwellings vary. This interior lot, approximately 50.0 feet wide and 166.9 feet long, fronts onto Thirteenth Avenue to the northwest. The subject site abuts single family lots to the southwest and northeast. Vehicular access to the subject site is proposed to be retained via the rear lane to the southeast of the property.

The site is relatively flat with a downward slope of approximately 2.3 feet in the north-south direction. The subject site was originally improved with a single family dwelling and a detached carport in accordance with the Building Permit B12386 issued in 1963. The dwelling was further improved with a second floor addition and various interior alterations in accordance with the Building Permit BLD15-01759 issued in 2013. To date, this permit is open, with the final inspection still outstanding.

In 2018, a new building permit application (BLD18-00853) was made for the addition of solar panels to the existing dwelling. In connection with the review of this new application, City staff identified further improvements which have been made: the existing detached carport has been converted into a garage without the benefit of a building permit. It is unknown when this conversion took place.

The subject garage observes 3.7 feet side yard setback where a minimum side yard setback of 3.94 feet is required for accessory buildings. As a result, a variance is requested in order to legalize the unauthorized construction.

The appeal is to vary Section 6.6(2)(d) – “Accessory Buildings and Uses” of the Zoning Bylaw requirement for the minimum side yard width from 3.94 feet to 3.7 feet to allow the conversion of the existing detached carport into a detached garage to the existing single family dwelling.

The intent of the Bylaw is to mitigate the impacts of building massing on neighbouring properties. The Bylaw requires an accessory building to be set back at least 3.94 feet from the side property line, except where such accessory building is situated within the rear 29.53 feet of the lot and not less than 70.54 feet from the street, in which case the setback from the side lot line can be reduced to nil.

In this case, the 20.33 feet wide by 24.55 feet deep detached garage is built within the existing carport footprint in the southwest portion of the site, approximately 42.5 feet from the rear (southeast) property line and 99.9 feet from the front (northwest) property line. As such, the detached garage is outside of the rear 29.53 feet of the property by approximately 12.97 feet, and therefore cannot observe the nil side yard setback provision in accordance with Section 6.6(2)(d) of the Zoning Bylaw.

The garage is partly screened by a fence along the southwest side property line; only slightly more than half of the southwest elevation is visible from the neighbouring property to the southwest. Also, the two windows on the southwest elevation, facing the neighbouring rear yard, will be removed as a condition of the building permit; this would eliminate overlooking/privacy concerns created otherwise.

In summary, given the existing conditions and the marginal scale of the proposed side yard encroachment, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the resident at 8438 13th Avenue supporting this variance.

MOVED BY MR. DHATT

SECONDED BY MR. PEPPARD

THAT based on the plans submitted, this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6350

APPELLANT: Olga Abramsky, Galaxie Signs Ltd.

REGISTERED OWNER OF PROPERTY: Galaxie Signs Ltd.

CIVIC ADDRESS OF PROPERTY: 5085 Regent Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 1 DL: 74 Plan: NWP80558

APPEAL: An appeal for the relaxation of Section 402.5 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new roof parapet as a continuation of the front face of the existing industrial building at 5085 Regent Street, with a front yard setback of 9.84 feet, where a minimum set back of 19.69 feet is required. Zone M2.

APPELLANT'S SUBMISSION:

Ms. Olga Abramsky, on behalf of the property owner, submitted an application to allow for the construction of a new roof parapet as a continuation of the front face to improve the overall look and appeal of the building.

Mr. John LeComte, on behalf of the property owner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned M2 General Industrial District, is located in the Dawson-Delta neighbourhood. The M2 District is intended for the accommodation of general industrial activities under conditions designed to minimize conflicts with surrounding uses.

The subject property consists of two pieces of land separated by a street (Regent Street), which share the same land title. These two pieces of land, to the north and to

the south of Regent Street, are considered “hooked” lots. Only the northern “hooked” lot (“the subject lot”) is the subject of this appeal.

The subject lot is an approximately 296.2 feet deep interior lot, with a 138.7 foot frontage facing onto Regent Street to the south. Directly across Regent Street (to the south) is the above mentioned southern “hooked” lot. This lot is undeveloped and although it appears to be used for parking, there are no City permit records supporting this activity. Beyond this lot, farther to the south, is the Trans Canada Highway, which run parallel to Regent Street. To the west and east, the subject site abuts lots containing various industrial developments. To the north, the lot is bordered by the greenery of the Still Creek Conservation Area. Vehicle access to the subject site is provided from Regent Street; there is no lane access.

The subject site is improved with a two-storey warehouse building, built in 1960, which is occupied by Galaxie Signs Ltd. The existing building is proposed to be further improved with a new roof parapet, for which the following variance is required:

The appeal proposes the relaxation of Section 402.5 - “Front Yard” of the Burnaby Zoning Bylaw from 19.68 feet to 9.84 feet to allow the construction of a new roof parapet, as a continuation of the front face of the existing industrial building, encroaching into the required front yard abutting Regent Street. The intent of the Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve a unified streetscape.

This proposal is an attempt to improve an external appearance and visibility of the building. It should be noted that the subject site is at a substantially lower level (by approximately 16.0 feet) compared to the level of the Trans Canada Highway.

The requested variance is related to the siting of the existing building, which observes an approximately 9.84 feet front yard setback and is considered legal non-conforming with respect to the required front yard of the Zoning Bylaw. The proposed new roof parapet, as a continuation of the existing front face of the building, would not result in further encroachment of the building to the front yard.

The proposed 6.0 feet high parapet would span across the entire front face, approximately 100.0 feet wide, and would wrap six feet around each side of the building. The overall height of the building will increase from 18.67 feet to 24.67 feet; this is well within the maximum permitted height for a four-storey building in the M2 District.

With respect to the impacts on the adjacent properties, the existing two-storey building immediately to the west of the subject property, is set back approximately 33.0 feet from the front property line, or approximately 23.0 feet behind the subject building. There is no building adjacent the subject site to the east. Further, with the front yards varying in depth in the subject block from 9.84 feet (the subject lot) to approximately 80.0 feet (5289 Regent Street) in depth, there is no sense of a unified street frontage.

Considering the above and given the small scale of the proposed roof parapet extension, this relaxation would not result in any negative massing impacts to neighbouring sites or the street frontage.

In summary, given that site conditions present a hardship and this request would not result in any impacts to the neighbouring properties or the existing streetscape, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

THAT based on the plans submitted, this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(c) APPEAL NUMBER: **B.V. 6351**

APPELLANT: Jason and Tara Chow

REGISTERED OWNER OF PROPERTY: Jason and Tara Chow

CIVIC ADDRESS OF PROPERTY: 6554 and 6556 Georgia Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 4 DL: 206 Plan:
NWP19483

APPEAL: An appeal for the relaxation of Section 6.3.1 of the Burnaby Zoning Bylaw which, if permitted, would allow for a new detached garage to an existing two family dwelling at 6554 and 6556 Georgia Street, with a distance between the buildings on the same lot of 10.30 feet, where a minimum distance of 14.80 feet is required. Zone R5.

APPELLANT'S SUBMISSION:

Mr. Jason and Ms. Tara Chow, property owners, submitted an application to allow for a new detached garage to an existing two family dwelling.

Mr. Ivan Goman, Building Designer, and Mr. Chow appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R5 Residential District, is located in the Lochdale neighbourhood, in which the majority of single and two family dwellings were built in the 50's and 60's. This shallow interior lot, approximately 74.4 feet wide and 106.4 feet deep, fronts onto Georgia Street to the north. The subject property is surrounded by single family dwellings on all four sides. Vehicular access to the site is via the rear lane to the south. The site is relatively flat with a downward slope of approximately 2.6 feet from the rear to the front.

The subject property is improved with a two family dwelling with an attached carport, built in 1959. The site is proposed to be further improved with a new detached garage, for which a variance has been requested.

The appeal is to vary Section 6.3.1 - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 14.8 feet to 10.3 feet to allow the construction of a new detached garage to the existing two family dwelling.

The Bylaw requires a separation between buildings on the same lot to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor space.

The existing two-family dwelling, with an approximately 59.1 feet wide by 38.4 feet deep footprint, is sited in the middle and slightly to the north (front) of the site. The dwelling features two raised decks at the southwest and southeast (rear) corners of the building, projecting farther from the rear building face approximately 10.0 feet. The area in middle of the rear face, between two decks, is where the original carport was attached to the building (The carport structure was demolished in 2018).

The proposed 20.5 feet wide by 22.0 feet deep detached garage would be located approximately in the middle of the rear yard. The garage would observe a 3.94 feet setback from the rear lane, which is the minimum setback required from the lane.

The distance between the principal building and the proposed detached garage is measured from the northwest and northeast corners of the proposed detached garage, to the closest corners of the two existing decks (attached to the main body of the dwelling). In this case, the encroachment would be limited to a small triangular area at these corners.

With the exception of the projected decks, the distance between the proposed detached garage and the rear face of the dwelling would be 18.16 feet, which exceeds the minimum distance required between the principal building and the detached garage by 3.36 feet.

Given the small encroachment area, the reduced separation between the two structures would have few impacts on the interior of the dwelling. Further, considering that the compromised distance between the two structures would occur at least 15.0 feet away from the side property lines, in the interior of the site, this relaxation would have no massing impact on adjacent properties to the west and east of the subject site.

With respect to outdoor space, this appeal would not reduce the green area available on this site; the detached garage is proposed over the paved area which served as vehicular access to the original carport. As such, the requested relaxation would have little impact on the residents of the subject site.

In summary, considering the existing site conditions and the small scale of the requested variance, this relaxation would not create negative massing impacts on the neighbouring properties and the subject site; this Department does not object to the granting of the appeal.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from a property owner that did not provide their name and address expressing concern that the garage may be used for purposes other than its stated use.

MOVED BY MR. PEPPARD
SECONDED BY MS. FELKER

THAT based on the plans submitted, this appeal be ALLOWED.

CARRIED UNANIMOUSLY

ADJACENT OWNER'S COMMENTS:

The resident at 6544 Georgia Street appeared after the Board considered the application and sought the Board's permission to appear. With no objection, the Chair permitted the speaker to appear before the Board regarding 6554 and 6556 Georgia Street. The resident expressed concerns that the garage may be used for purposes other than its stated use.

As no Board member requested reconsideration of the appeal, the approval of the variance stands.

(d) **APPEAL NUMBER: B.V. 6352**

APPELLANT: William Beukers, Alair Homes Delta

REGISTERED OWNER OF PROPERTY: Alnesh Mohan

CIVIC ADDRESS OF PROPERTY: 1135 Eastlawn Drive

LEGAL DESCRIPTION OF PROPERTY: Lot: 117 DL: 126 Plan:
NWP28703

APPEAL: An appeal for the relaxation of Section 6.3.1 of the Burnaby Zoning Bylaw which, if permitted, would allow for an addition and alteration to the existing detached carport at 1135 Eastlawn Drive, with a distance between the buildings on the same lot of 10.71 feet, where a minimum distance of 14.80 feet is required. Zone R2.

APPELLANT'S SUBMISSION:

Mr. William Beukers, on behalf of the property owner, submitted an application for an addition and alteration to the existing detached carport.

Mr. Beukers appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R2 Residential District, is located in the Brentwood neighbourhood, in which the age and condition of single family dwellings vary. This irregular interior lot resembles a rough "kite" shape and is approximately 47.0 feet wide along its south (rear) property line by 119.9 feet deep along its west (side) property line. The subject site fronts onto Eastlawn Drive to the north (with a frontage of approximately 26.0 feet) and to the northeast (with a frontage of approximately 95.4 feet). To the southeast the site is flanked by a lane; vehicular access to the site is provided via this lane at the southeast corner of the site. Single family dwellings abut the subject site on all sides. The site observes a moderate downward slope of approximately 9.5 feet from west to east.

The subject property is improved with a single family dwelling with a detached carport, built in 1966. The site is proposed to be further improved with an addition/alteration to the existing detached carport, for which a variance has been requested.

The appeal is to vary Section 6.3.1 - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 14.8 feet to 10.71 feet to allow the addition and conversion of the existing detached carport into a detached garage to the existing single family dwelling.

The Bylaw requires a separation between buildings on the same lot to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor space.

Due to the site geometry, the existing detached carport, located right at the southwest corner of the site, is placed at an approximately 42 degree angle with respect to the existing dwelling sited parallel to the northeast front property line. The existing detached carport observes a distance of approximately 11.0 feet to the existing single dwelling, which is considered legal non-conforming with respect to the current Zoning Bylaw. Due to the angled orientation between the carport and dwelling, only a small triangular area at the northeast corner of the carport does not meet the required distance between the principal building and the detached garage.

The proposed conversion (replacement) of the existing detached carport into a detached garage and the proposed small storage addition (approximately 12.75 feet by 6.0 feet), along the western portion of the garage's north face, would slightly increase the existing carport footprint, which would also result in a slight increase to this non-conformity.

The 10.71 feet distance between two structures is measured from the northeast corner of the proposed detached garage to the outermost southwest face of the existing building. The shortest distance from the proposed addition to the outermost southwest face of the existing building would be 13.67 feet. Again, because the proposed detached garage is set at angle to the existing dwelling, only two small triangular areas (the northeast corners of the garage and the storage addition) encroach into the required separation zone between the two buildings. In this context, the reduced separation between them would not have a noticeable impact on the interior of the dwelling.

With respect to outdoor space, this appeal would slightly reduce the green space available on this site to the rear of the dwelling. However, with the generous southeast side yard (along the lane), of over 26.0 feet, over 600 square feet of outdoor area remains available in this yard.

Furthermore, since the reduced separation between the two structures would occur in the interior of the site, rather than close to the side property lines (over 28.0 ft. away from the southeast side property line), this relaxation would have little massing impacts on the adjacent properties to the west and across the lane to the southeast of the subject site.

In view of the above, and in the consideration of the challenges related to the existing site conditions and geometry, this Department does not object to the granting of the appeal.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. FELKER
SECONDED BY MR. PEPPARD

THAT based on the plans submitted, this appeal be ALLOWED.

CARRIED UNANIMOUSLY

As the next appeal was scheduled for 6:30 p.m., the Chair called for a recess.

MOVED BY MR. PEPPARD
MOVED BY MS. FELKER

THAT the Board of Variance Hearing recess until 6:30 p.m.

CARRIED UNANIMOUSLY

The Board recessed at 6:24 p.m.

MOVED BY MR. PEPPARD
MOVED BY MS. FELKER

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 6:30 p.m.

(e) **APPEAL NUMBER: B.V. 6353**

APPELLANT: Gary Gao

REGISTERED OWNER OF PROPERTY: Zhao Bing and Ji Hong

CIVIC ADDRESS OF PROPERTY: 4892 Carson Place

LEGAL DESCRIPTION OF PROPERTY: Lot: 40 DL: 157 Plan:
NWP20303

APPEAL: An appeal for the relaxation of Section 102.6(1)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a detached garage at 4892 Carson Place, with a principal building height of 31.25 feet (sloping roof) measured from the rear average grade, where the maximum building height of 29.50 feet is permitted. Zone R2.

A previous Board of Variance (BOV 6348, 2019 January 10) decision denied a principal building height of 31.99 feet, where a maximum building height of 29.50 feet was permitted.

APPELLANT'S SUBMISSION:

Mr. Gary Gao, on behalf of the property owners, submitted an application for the construction of a new single family dwelling with a detached garage.

Mr. Jing Wang, Builder, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2019 January 10. A variance was sought to allow for the construction of a new single family dwelling with a detached garage, observing the principal building height of 31.99 feet where a maximum building height of 29.5 feet is permitted. This Department did not support the request and the Board denied the appeal.

This appeal proposes to vary Section 102.6(1)(a) – “Height of Principal Building” of the Zoning Bylaw from 29.5 feet to 31.25 feet, as measured from the rear average grade, to allow construction of a new single family dwelling with a sloping roof.

The intent of the height requirements of the Zoning Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve the views.

This appeal proposes the principal building height lowered by 0.74 feet as compared to the original proposal; the drawings indicate that the lower height is achieved by reducing the main floor clear height by 0.5 feet (from 10.0 feet to 9.5 feet) and by reducing the overall roof height above the upper floor ceiling level by 0.5 feet (from 4.75 feet to 4.25 feet). It is not clear however, how the roof form is modified to absorb this reduction; the Building Department staff confirmed that only 0.24 feet could be credited towards this change.

Considering the proposed modifications to the original appeal, this Department's comments remain similar to comments on the 2019 January 10 appeal.

The subject site, which is zoned R2 Residential District, is located in the Sussex-Nelson neighbourhood, in which the majority of the single family dwellings were built in the 1960's. This irregular interior lot is 111.3 feet deep along its northwest (side) property line and has a frontage of approximately 77.5 feet onto Carson Place to the northeast. The site is bordered by a lane along the southeast (side) property line, which slightly curves to the southwest and continues along the southwest (rear) property line. The southernmost portion of the site is truncated, which is reflected in the chamfered property line alignment in this location.

The subject site abuts single family residential lots all around. Vehicular access to the subject site is proposed to be relocated from the Carson Place frontage to the rear lane to the southwest. The site observes a significant downward slope of approximately 18.0 feet from the front to the rear.

The revised building height relaxation request continues to be partly related to the topography of the site and partly related to the design choices. As a reminder in this case, the height calculation is based on the proposed grade at the rear elevation. A substantial grade difference from the front to the rear of the subject site also contributes to the excess height. It is also noted that the proposed dwelling would observe a height of 25.14 feet when viewed from the front property line, which is substantially less than the maximum 29.5 feet height allowed by the Zoning Bylaw (less by 4.36 feet).

When viewed from the rear elevation the excess height occurs over the upper roof, which resembles roughly a reversed "L" in plan, with the southwest portion running in a "front-to-rear" direction and the northeast portion running in a "side-to-side" direction.

As viewed from the rear elevation, the proposed 1.75 foot excess height encroachment occurs over the southwest portion of the upper roof and continues into the northeast portion and back from the rear face of the building. The encroachment starts approximately at the one-third point of the upper roof (as oppose at the mid-point) and continues to the roof peak.

With respect to the neighbouring property directly opposite the subject site across the rear lane, considering that the height encroachment area is more than 46.0 feet away from the subject sites rear property line (plus the additional 20.0 feet of the lane separation), no significant impacts are expected. The views from this neighbouring property are predominantly directed towards Patrick Place to the southwest. Furthermore, this property's rear yard is fully screened by a tall hedge and the portion of the northeast elevation (one storey high) visible from the lane, does not have any windows facing the subject site.

Viewed from the southeast elevation, the proposed dwelling would appear over height essentially only at the southwest portion of the upper roof (starting approximately at the one-third point), which is further away from the southeast side property line; the height encroachment area would be at least 36.0 feet away from this property line (plus the additional 20.0 feet of the lane separation). Considering the small scale of the over height portion of the roof in combination with this generous setback, the height encroachment would not be noticeable from the neighbouring dwellings across the lane to the southeast.

Also, due to the sloping terrain, the proposed dwelling would be partly underground, thus substantially reducing the building height as viewed from the northwest side elevation. The proposed dwelling would not appear over height as viewed from the neighbouring property immediately to the northwest.

However, the requested variance continues to be not exclusively related to the sloping site. The excess height of the proposed dwelling continues to be also a result of design choices, particularly with the proposed clear floor to ceiling height, although partly revised, being the major contributing factors. The proposed clear floor to ceiling heights in this proposal are: 9.0 feet in the cellar (no change), 9.5 feet (reduced by 0.5 feet) on the main level and 8.5 feet (no change) on the upper level. It would be possible to construct a dwelling with ceiling heights that would conform to the Bylaw. For example: 8.0 feet in the cellar, 9.0 feet or 9.5 feet (9.5 feet is proposed) on the main level and 8.0 feet on the upper level.

Furthermore, lowering the dwelling more into the ground should also be considered; this would help to distribute the substantial grade difference more evenly throughout the site.

At the 2019 January 10 Hearing, the appellant expressed the desire to provide an accessible (flat) pathway to the front door of the dwelling as a main reason for the proposed main floor level to be essentially at the same level as the existing grade along the front property line. With the 24.60 feet of the front yard depth, as measured to the front porch, there is enough room however, to provide a gentle ramp which would allow for a relatively flat access and in the same time slightly lower the main floor level.

This appeal continues to propose a flat front yard area, but to the rear of the dwelling, with the detached garage proposed at the lane level, there is a substantial grade difference between the main floor level at 176.5 feet and the garage slab level at 159.38 feet, which remains a concern. (The cellar is proposed at 166.26 feet.) As a result, the pathway between the garage and the dwelling includes an upward stair with 12 steps and another upward stair with 3 steps to the main floor, or a downward stair with 8 steps to the cellar. There is insufficient information on the submitted site plan to verify how the 17.12 foot difference between the garage level and main floor level can be negotiated by 15 steps, as the stair risers typically vary between 7-8 inches.

The submitted site plan does not indicate grading in the rear yard, therefore it is assumed, that no other grading changes are proposed. Currently, the rear yard terrain observes a moderate slope of approximately 8.0 feet, which is retained at the lane edges by an approximately 4.0 foot high retaining wall.

In summary, although it is recognized that the topography of the subject site is a contributing factor, as well as this variance has a limited impact on the neighbouring properties, the requested height variance is the result of the design choices and it is possible to construct this design with the building height in accordance with the Bylaw. Therefore, this Department cannot support the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the resident at 4871 Carson Place expressing concern of the building height increase affecting the character of the neighbourhood.

MOVED BY MR. PEPPARD
SECONDED BY MS. FELKER

THAT based on the plans submitted, this appeal be DENIED.

CARRIED UNANIMOUSLY

(f) **APPEAL NUMBER:** B.V. 6354

APPELLANT: Lawrence Higa

REGISTERED OWNER OF PROPERTY: Franklin and Melissa Soriano

CIVIC ADDRESS OF PROPERTY: 2090 Sperling Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 149 DL: 131 Plan:
NWP54909

APPEAL: An appeal for the relaxation of Sections 6.3.1 and 6.2(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for an addition and alteration to the existing detached garage at 2090 Sperling Avenue. The following variances are requested:

- a) a distance between the buildings on the same lot of 4.20 feet, where a minimum distance of 14.80 feet is required; and,
- b) a side yard setback of 3.90 feet, where a minimum setback of 4.90 feet is required.

A previous Board of Variance (BOV 1936, 1979 May 04) decision denied a rear yard setback of 19.5 feet, where a minimum setback of 30.0 feet was required.

A previous Board of Variance (BOV 1953, 1979 June 08) decision allowed a rear yard setback of 24 feet, where a minimum setback of 30.0 feet was required.

APPELLANT'S SUBMISSION:

Mr. Lawrence Higa, on behalf of the property owners, submitted an application for an addition and alteration to the existing detached garage.

Mr. Higa and Mr. Soriano appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Sperling-Broadway neighbourhood, in which the age and condition of single family dwellings vary. This interior lot, approximately 73.4 feet wide and 153.0 feet long, fronts onto Sperling Avenue to the west. The subject site abuts single family lots on all four sides. Vehicular access to the subject site is provided via Sperling Avenue; there is no lane access. The site is relatively flat with a downward slope of approximately 9.5 feet from the rear to the front.

The subject property is improved with a single family dwelling and an accessory "workshop" building, originally built in 1949. The site was further improved with various alterations and additions to the existing dwelling around 1979, which were the subject of two appeals before the Board: on 1979 May 04 (BV 1936) and 1979 June 07 (BV 1953).

In both appeals a variance was sought to allow the alterations and additions to the existing dwelling, observing the rear yard setback of 19.5 feet proposed in the first appeal (BV 1936), and observing the rear yard setback of 24.0 feet proposed in the second appeal (BV 1953), where a minimum rear yard setback of 30.0 feet was required. The Board denied the first appeal and allowed the second appeal.

Currently, the subject site is in early stages of construction in accordance with the building permit BLD18-00820, issued on 2018 December 17, for a second floor addition and further interior and exterior alterations to the existing dwelling. No changes were proposed to the existing accessory building, which would serve as a detached single car garage to the existing dwelling.

Now the applicant proposes to enlarge the existing accessory building, which would serve as a detached double car garage (in tandem) to the existing dwelling. As a result, two variances are requested in order for this change to be added to the works approved under the current building permit.

The first a) appeal is to vary Section 6.3.1 - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 14.8 feet to 4.2 feet to allow the addition to the existing accessory building (detached garage).

The Bylaw requires a separation between a principal building and a detached garage on the same lot to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor space.

The second b) appeal is to vary Section 102.9(1) - "Side Yards" of the Zoning Bylaw requirement for the minimum side yard width from 4.9 feet to 3.9 feet to allow the addition to the existing accessory building (detached garage).

The intent of the Bylaw to require a side yard is to mitigate the impacts of building massing on neighbouring properties.

Both variances are related to the unusual siting of the existing buildings on the subject site; the existing dwelling and the existing accessory building are located “side-by-side”, rather than “front-to-back”, which is the most common arrangement. Further, the principal building observes the front yard setback of 75.6 feet, which is almost a half of the subject lot’s depth.

The existing accessory building, approximately 11.98 feet wide by 29.56 feet long, is located within the generous northern side yard (20.79 feet), approximately 2.1 feet away from the north (side) property line which is legal non-conforming with respect to the required side yard of the Zoning Bylaw. It is also 24.55 feet away from the east (rear) property line. This existing placement results in the 22.31 feet overlap where the distance between two buildings is only approximately 6.71 feet.

The subject addition, 12.0 feet wide by 18.5 feet long, is proposed in front of the existing accessory structure and slightly off, by 1.87 feet, to the south. This proposed addition would observe a north side yard setback of 3.9 feet (which is the subject of the second appeal), which is larger than the existing setback by 1.87 feet. The proposed addition will also require the same reduced distance of 4.2 feet between the principal building and the detached garage (which is the subject of the first appeal). The “offset” area is proposed to continue along the south face of the existing building by additional 11.1 feet; this would result in a distance of 29.6 feet where the reduced separation between two buildings would occur.

With respect to the first a) variance, since the principal dwelling has only small windows (a living room window in the basement and a bathroom window on the main floor) facing the proposed addition, minor impacts from this variance are expected on the occupants of the subject residence.

Furthermore, this appeal would not reduce the green area available on this site; the garage addition is proposed over the paved area which would serve as vehicular access to the existing detached garage. As such, the requested relaxation would have little impact with respect to outdoor space.

With respect to the second b) variance, given the proposed location of the garage addition, outside of the rear yard, the addition is subject to the side yard setback requirement for a principal building in R2 Residential District.

The Bylaw does not permit accessory buildings in a required front or side yard, except as provided for in Section 6.6 “Accessory Buildings and Uses”. This section requires an accessory building to be located between the rear building line and the rear lot line, in which case the Bylaw permits an accessory building to be set back at least 3.94 feet from the side property line.

Further, when an accessory building is situated within the rear 29.53 feet of the lot and not less than 70.54 feet from the street, the setback from the side lot line can be reduced to nil. In this case however, the proposed garage addition would be located behind the rear building line and to the north (side) building face. The proposed addition would overlap the neighbouring detached garage that is sited close to their shared north property line. Therefore, little massing impacts are expected on the neighbouring property to the north.

With respect to both variances, it is recognized that other design options could be considered. For example: according to the submitted drawings, the principal building observes a rear yard setback of 31.0 feet, excluding the existing 12.25 feet deep rear deck (the existing cover over the deck is to be removed). As such, there is room behind the existing accessory building, within the rear yard, where an addition to the existing garage could be proposed without a request for a side yard variance and with a minor variance only for the distance between two buildings on the same lot.

The proposed relaxations would not create negative massing impacts on the neighbouring properties and the subject site. It appears also, that the proposal would preserve the existing rear yard, which is already substantially reduced considering the siting of the principal building.

In summary, considering the existing site conditions and the lack of impacts on the neighbouring properties and the subject site; this Department does not object to the granting of the first a) and the second b) appeal.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the resident at 2110 Sperling Avenue having no objection to the proposed variances.

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

THAT based on the plans submitted, part (a) of this appeal be ALLOWED.

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MS. FELKER

THAT based on the plans submitted, part (b) of this appeal be ALLOWED.

CARRIED UNANIMOUSLY

5. NEW BUSINESS

No items of new business were brought forward at this time.

6. **ADJOURNMENT**

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:42 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. B. Felker

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Mr. W. Peppard